STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 3927C **PERMIT 1790** **LICENSE 932C**

THIS IS TO CERTIFY, That

Daniel H. Gainey, Trust
P.O. Box 910
Santa Ynez, CA 93460

has the right to use waters of **Santa Ynez underflow** in **Santa Barbara County**

tributary to **Pacific Ocean**

for the purpose of **Irrigation use**

Amended **License 932C** supersedes the license originally issued on **December 2, 1930**, which was perfected in accordance with the laws of California, the regulations of the State Water Resources Control Board (SWRCB) or its predecessor, and the terms of **Permit 1790**. The priority of this right dates from **March 28, 1924.** Proof of maximum beneficial use of water pursuant to **Application 3927C** was made as of **April 4, 1930**.

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed **nineteen hundredths (0.19) cubic foot per second to be diverted from April 1 to December 1 of each year. The maximum amount diverted under this license shall not exceed 36 acre-feet per year.**

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION IS LOCATED:

By California Coordinates of 1927, Zone 5, North 406,893 feet and East 1,319,668 feet, being within SE¼ of SE¼ of projected section 17, T6N, R32W, SBB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

0.3 acres within NE¼ of SE¼ of projected section 17, T6N, R32W, SBB&M
6.6 acres within SE¼ of SE¼ of projected section 17, T6N, R32W, SBB&M
10.1 acres within SW¼ of SW¼ of projected section 16, T6N, R32W, SBB&M

17.0 acres total within Assessor's Parcel No. 083-160-23, as shown on map dated March 15, 2000 on file with the SWRCB.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

Edward C. Anton, Chief
Division of Water Rights

Dated: MAY - 3 2002

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 932 (Application 3927)

Michael P. O'Brien

Daniel Gainey, Trust

John M. Sundheim and JoAnn A. Scoggin

ORDER DIRECTING ISSUANCE OF SEPARATE LICENSES AND REVOCATION OF ORIGINAL LICENSE

SOURCE: Santa Ynez River

COUNTY: Santa Barbara

WHEREAS:

1. License 932 was issued to Owen E. Hollister on December 2, 1930 pursuant to Application 3927 and was recorded with the County Recorder of Santa Barbara on December 31, 1930.

2. License 932 was subsequently assigned to Michael O.'Brien for APN 083-160-09 on January 20, 1971; John M. Sundheim & JoAnn A. Scogginn for APN 083-160-14 on July 8, 1997; and Daniel Gainey, Trust for APN 083-160-023 on August 27, 1997.

3. A request for issuance of separate licenses has been filed with the State water Resources Control Board (SWRCB) staff on April 26, 2000, by Daniel H. Gainey, Trust; May 6, 2000 by John M. Sundheim & JoAnn A. Scoggin and Michael O'. Brien on May 15, 2000, and the SWRCB has determined that good cause for such change has been shown.

4. The license term relating to the continuing authority of the SWRCB should be updated to conform to Section 780(a) Title 23 of the California Code of Regulations.

5. The license terms relating to the water quality objectives of the SWRCB should be updated to conform to Section 780(b), Title 23 of the California Code of regulations.

6. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT LICENSE IS AMENDED TO READ AS FOLLOWS:

1. License 932 is hereby replaced and superseded upon the issuance of License 932A to Michael P. O'Brien, License 932B to John M. Sundheim and JoAnn A. Scoggin, and License 932C to Daniel Gainey, Trust.

2. Separate Licenses be issued as follows:

A. License: 932A (Application 3927A)
Owner: Michael P. O'Brien
Source: Santa Ynez River underflow tributary to Pacific Ocean
Use: Irrigation
Direct Diversion: 0.51 cfs
Maximum Amount: 146 acre-feet per annum
Season: April 1 to December 1
Point of Diversion: California Coordinate System, Zone 5, North 407,193 and East 1,318,351, being within NW¼ of SE¼ of projected section 17, T6N, R32W, SBB&M
Place of Use:
8.9 acres within NE¼ of NW¼ of projected section 20,
2.8 acres within NW¼ of NE¼ of projected section 20,
9.8 acres within NW¼ of SE¼ of projected section 17,
0.5 acre within NE¼ of SE¼ of projected section 17,
4.9 acres within SE¼ of SE¼ of projected section 17,
18.1 acres within SW¼ of SE¼ of projected section 17,
0.6 acre within SE¼ of SW¼ of projected section 17, all within T6N, R32W, SBB&M.
45.6 acres total on Santa Barbara County Assessor's Parcel No. 083-160-09 as shown on a map dated March 15, 2000, on file with the SWRCB.

B. License: 932B (Application 3927B)
Owner: John M. Sundheim and JoAnn A. Scoggin
Source: Santa Ynez River underflow tributary to Pacific Ocean
Use: Irrigation
Direction Diversion: 0.11 cubic feet per second
Maximum Amount: 36 acre-feet per annum
Season: April 1 to December 1
Point of Diversion: California Coordinate System, Zone 5, North 407,121 and East 1,319,332 being within NE¼ of SE¼ of projected section 17, T6N, R32W, SBB&M.

Place of Use: 5.0 acres within NE¼ of SE¼ of projected section 17,
4.7 acres within SE¼ of SE¼ of projected section 17,
9.7 acres total, all within T6N, R32W, SBB&M, on Santa Barbara County Assessor's Parcel No. 083-160-14, as shown on a map dated March 15, 2000, on file with the SWRCB.

C. License: 932C (Application 3927C)
Owner: Daniel Gainey, Trust
Source: Santa Ynez River underflow tributary to Pacific Ocean
Use: Irrigation
Direct Diversion: 0.19 cubic feet per second
Maximum Amount: 36 acre-feet per annum
Season: April 1 to December 1
Point of Diversion: California Coordinate System, Zone 5, North 406,893 and East 1,319,668, being within SE¼ of SE¼ of projected section 17, T6N, R32W, SBB&M.
Place of Use: 0.3 acre within NE¼ of SE¼ of projected section 17,
6.6 acres within SE¼ of SE¼ of projected section 17,
10.1 acres within SW¼ of SW¼ of projected section 16,
17.0 acres total, all within T6N, R32W, SBB&M, on Santa Barbara County Assessor's Parcel No. 083-160-23 as shown on a map dated March 15, 2000, on file with SWRCB.

3. Licenses 932A, 932B, and 932C shall contain all other terms and conditions presently in License 932 or updated terms to reflect compliance with the SWRCB's policy.

4. The continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by

another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

5. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

6. License 932 is amended to include the following Endangered Species condition:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

7. All other terms and conditions of License 932 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

Edward C. Anton, Chief
Division of Water Rights

Dated: MAY - 3 2002

Mailing List

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